IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.3817 OF 2006

Shri Sandeep Balkrushna Mhatre ..Applicant

Versus

The State of Maharashtra ..Respondent

Mr. P.P. Hudlikar with P.L. Sapkale for applicant

Mr. S.S.Pednekar, APP for State

Mr. Suryavanshi for complainant

CORAM : S.C.DHARMADHIKARI,J.

DATE : 13TH NOVEMBER, 2006

P.C.:

1. The applicant is original accused no.6 in Sessions Case No.49 of 2006, which arises out of the C.R. Registered at Vithalwadi Police Station bearing No.I-122/2005.

2. The deceased, according to the prosecution, was

assaulted during the course of a survey being carried out of an agricultural land. The dispute between the accused and the deceased family pertain to the right, title and interest in this agricultural land and admittedly civil proceedings are pending.

3. The applicant is alleged to have been summoned by the persons during the course of the survey and along with others he came with some weapons which are more particularly described in the statement of the complaint, a copy of which is annexed.

4. All statements including those relied upon by the original complainant during the course of the arguments before me shows that the applicant came there upon being informed of the survey and participated in the assault on the family of the deceased.

5. The complainant urges that even the applicant has taken part in the assault on the deceased. The applicant allegedly came with wooden stick but no specific role is attributed to him during the course of the assault on the deceased. All persons are allegedly present and have taken part and in such circumstances, prima facie, there

is substance in Mr. Hudlikar's contention that no specific role is attributed in the entire charge-sheet to the applicant.

6. The investigations are complete and the charge-sheet is laid in the sessions case. The case is pending for trial.

7. I have been taken through the application so also affidavit of the original complainant Ravi Balaram Mhatre. Mr. Suryawanshi invites my attention to an order passed by this Court on the application of co-accused Ramesh Kamlu Mhatre. He submits that in similar circumstances the application of the said Ramesh is rejected. However, in the same order the learned Judge has noted that some of the accused have been granted bail. The bail to co-accused Ramesh has been denied in peculiar facts of his case. In my view, considering that some of the accused have been enlarged on bail and strict conditions have been imposed all apprehensions of the complainant can be taken care of. Applying the settled principles to this application, I am of the view that the applicant deserves to enlarged on bail. Hence the following order :

O R D E R :

(i) The applicant shall be enlarged on bail in connection with C.R.No.I-122/2005 of Vithwalwadi Police Station, Dist. Thane, in the sum of Rs.10,000/= with one or two sureties in the like amount.

(ii) The applicant upon his released shall reside in Raigad District and more particularly in Panvel City. He shall report to the Panvel City Police Station once in a week till the conclusion of the trial.

(iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of

bail.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case and shall not influence the trial court at the time of trial.

(vi) This order does not prevent the applicant from attending the court at Thane where the sessions case is pending.

(vii) Application is disposed of in above terms.

(S.C.Dharmadhikari, J.)